

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN,
GILGIT.
CPLA. No. 60/2014**

Before:-

- 1. Mr. Justice Rana Muhammad Arshad Khan, Chief Judge.**
- 2. Mr. Justice Muzaffar Ali, Judge.**

1. Provincial Government through Chief Secretary GB.
2. The Secretary Food Gilgit-Baltistan.
3. The Director Food Gilgit-Baltistan.
4. Civil Supply officer Diامر Chillas.

Petitioners/Appellants

Versus

1. Fiaz Ahmed s/o Abdullah Khan r/o Goner Farm District Diامر.

Respondent /Petitioner.

2. Abdul Jahan s/o Abdul Qayyum ACSI (BPS-15) Civil Supply.

Proforma Respondent

Petition for leave to appeal under article 60 of Gilgit-Baltistan (Empowerment & Self Governance) Order 2009, against the impugned judgment/order dated 25.03.2014 passed by Chief Court Gilgit-Baltistan in writ petition No. 90/2012.

Present:-

1. The Advocate General Gilgit-Baltistan for the petitioners.
2. Mr. Amjad Hussain Advocate for respondents.

Dated of Hearing:- 17-09-2015

JUDGMENT

Dr. Rana Muhammad Shamim,, CJ..... The learned Advocate General Gilgit-Baltistan contends that the Food and Agriculture Department, Government of Gilgit-Baltistan advertised various posts on 14.08.2011 including posts of Assistant Civil Supply Inspectors (ACSI) BPS-05 and only one post was filled in and one Muhammad Yaqoob s/o Sair Ali was selected after taking test/interview as

he got first position as per merit list. Subsequently, 02 more posts of Assistant Civil Supply Inspector BPS-05 were created/sanctioned. The respondent No. 2 Abdul Jahan was selected against one of the said posts. He further submits that the learned Chief Court Gilgit-Baltistan by following an out dated analogy of selection allowed the petition filed by the respondent No. 01 vide Writ Petition No. 90/2012 on 25.03.2014 and directed the appellants to appoint him for the post applied for as he got 2nd position in the merit list. While accepting the petition and passing the following order setting the things correct:-

- (A). Respondents No. 1 to 4 are directed to issue/pass office order appointing petitioner with effect from 1st September 2012 (01.09.2012) against the posts of ACSI BPS-05 in the department of respondents No. 1 to 4.
- (B). Petitioner be placed after Mr. Muhammad Yaqoob in the seniority list of ACSI BPS-05 of Department of respondent's No. 02 to 04.
- (C). Respondent No. 01 to 04 pay arrears of full pay with allowance to the petitioner with effect from 01.09.2012 against the post of ACSI BPS-05.
- (D). Respondents No. 1 to 4 to submit their compliance report of above order within one month from today, failing which to show cause that why they should not be proceeded for violating merit in making appointments in violation of the merit list referred in the petition and also for none compliance of this order.

The learned Advocate General further submits that the order dated 25.03.2013 in writ Petition No. 19/2013 passed by the learned Chief Court Gilgit-

Baltistan based on misconception and on an out dated analogy of selection and the same is liable to set aside.

On the other hand, Mr. Amjad Hussain the learned counsel for the petitioners submits that since two posts of Assistant Civil Supply Inspector (BPS-05) were not admittedly advertised in the newspapers and against one of those posts one Abdul Jahan s/o Abdul Qayoom has been selected/appointed by the appellants secretly as he got 3rd position in the test/interview, whereas, the respondent No. 1 Fiaz Ahmed s/o Abdullah Khan was ignored inspite of the fact that he got 2nd position in the test/interview as per merit list. He was ignored by the appellants for the best reason known to them, which is contrary to the fundamental rights guaranteed under article-71(2) of Gilgit-Baltistan (Self Empowerment & Governance) Order, 2009 as well as the enabling articles of the constitution of Islamic Republic of Pakistan. He further contended that the respondent No. 1 has preferential right over the respondent No. 2 for the appointment for one of the said two vacant posts as per final merit list, which is against principle of natural justice and equity. He further submits that the learned Advocate General Gilgit-Baltistan appearing on behalf of the petitioner could not find out any infirmity and illegality in the impugned judgment dated 25.03.2014 in Writ Petition No. 19/2012 passed by the learned Chief Court, Gilgit-Baltistan and prayed that the same be maintained in its letters and spirits.

We heard the learned counsel for the parties, perused that material on record and agree with the contention raised by Mr. Amjad Hussain learned advocate for the respondent.

The petition is converted into an appeal and partially allowed with the modification that the respondent No. 1 be appointed as Assistant Civil Supply Inspector (BPS-05) with prospective effect i.e. from the date of issuance of his appointment letter by the office of respondent No. 02 thereto. Rest of the

conditions laid down by the learned Chief Court, Gilgit-Baltistan in its order dated 25.03.2014 are deleted herein.

The petition is partially allowed with the above modification.

Chief Judge

Judge

Whether the case is fit to be reported or not.